

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS

August 4, 2009

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Pastor Frederick D. Tappan from Eureka True Vine Baptist Church. Councilman Ford presented Pastor Tappan with a certificate naming him Chaplain of the day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of July 21, 2009 with the following motion:

Councilwoman Ware stated that Special Items 1 and 2 were in reverse order

MOTION: Conrad
SECOND: Ford
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins
Brown did not cast a vote

APPROVED

Mayor Pro Tem Lowery requested that the Memphis City Council delay any consideration of his selection for the City Attorney until the court case has been settled. This item will be held for two weeks.

MOTION: Halbert – Hold all of Mr. Lowery’s appointments for two weeks
SECOND: Brown
AYES: Brown, Ford and Halbert
NAYS: Boyd, Conrad, Flinn, Fullilove, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins

FAILED, set up as Special Item #1

22. **APPOINTMENTS**

Chief Administrative Officer

Appointment

Jack Sammons

MOTION: Flinn
SECOND: Hedgepeth
AYES: Boyd, Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Morrison, Strickland, Ware and Chairman Collins
NAYS: Brown and Ford

APPROVED

1. **RESOLUTION APPROVING AN HONORARY STREET NAME CHANGE OF WALNUT GROVE IN HONOR OF MRS. BERNICE FLINN.**

MOTION: Hedgepeth
SECOND: Ware

APPROVED, by unanimous voice vote

2. **ELECTION OF THE COUNCIL VICE CHAIRMAN.**

Councilman Morrison nominated Councilman Boyd

Councilman Brown nominated Councilwoman Ware

Motion to close nomination was called

MOTION: Morrison – Nominate Councilman Boyd
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Fullilove, Hedgepeth, Morrison, Strickland and
Chairman Collins
NAYS: Brown
Ford, Halbert and Ware did not cast a vote

APPROVED, set up as Special Item #2. Councilman Boyd was elected as Vice Chairman

3. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE NORTHEAST CORNER OF LOWRANCE ROAD; +/-331.38 FEET EAST OF STANSELL COURT, CONTAINING 3.76 ACRES IN AN AREA REGULATED BY THE APPROVED CONDITIONS FOR PARCEL 9 OF THE STANSELL CROSSING PLANNED DEVELOPMENT (P.D. 00-311CC).**

Case No. PD 09-309cc

Applicant: Tower Ventures, LLC (Billy Orgel)
Prime Development Group, Inc. – Mike Fahy - Representative

Request: Communication Tower (190 ft. tall)

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison
SECOND: Strickland
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland,
Ware and Chairman Collins
Flinn did not cast a vote

APPROVED

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST CORNER OF GERMANTOWN PARKWAY AND U.S. HIGHWAY 64, CONTAINING 120.38 ACRES IN AN AREA REGULATED BY THE APPROVED CONDITIONS FOR THE I-40/GERMANTOWN PARKWAY PLANNED DEVELOPMENT (P.D. 06-336).**

Case No. PD 09-312

Applicant: Simeon Properties, Inc. (Keith Stewart)
ETI Corporation (Rodney Joyner) – Representative

Request: Amend existing conditions to allow Retail Sales Outdoor

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison

SECOND: Boyd
AYES: Boyd, Brown, Conrad, Ford, Halbert, Hedgepeth, Morrison, Ware and Chairman Collins
Flinn, Fullilove and Strickland did not cast a vote

APPROVED

5. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED WITHIN THE EXISTING JUVENILE COURT PARKING LOT BETWEEN POPLAR AVENUE AND WASHINGTON AVENUE, CONTAINING .23 ACRE.**

Case No. SAC 09-602

Applicant: Shelby County Government
ETI Corporation – Representative

Request: Close the alley to permit construction of a new Regional Forensics Center

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Morrison
SECOND: Brown
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Morrison, Ware and Chairman Collins
Flinn, Hedgepeth and Strickland did not cast a vote

APPROVED

6. **RESOLUTION APPROVING A SPECIAL USE PERMIT LOCATED ON THE NORTHEAST CORNER OF FIELDS ROAD AND WEAVER ROAD, CONTAINING 2.40 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT.**

Case No. SUP 09-212

Applicants: Freedom Preparatory Academy
SR Consulting, LLC – Representative

Request: Special use permit for a Charter School

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

No Public Hearing Required; No Opposition at LUCB

MOTION: Morrison
SECOND: Brown
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Morrison, Ware and Chairman

Collins
Flinn, Hedgepeth and Strickland did not cast a vote

APPROVED

CONSENT AGENDA – Items 7-12 may be acted upon by one motion: SEE PAGE 2988 FOR ROLL CALL

7. **ORDINANCE TO AMEND CHAPTER 21, ARTICLE III, OF THE CODE OF ORDINANCES, SO AS TO PROHIBIT USING TEXT MESSAGING SERVICES WHILE OPERATING A MOTOR VEHICLE, UP FOR S E C O N D READING.**

Ordinance No. 5324

APPROVED, on Second reading

8. **ORDINANCE TO AMEND CHAPTER 21, CODE OF ORDINANCES, CITY OF MEMPHIS, TO MODIFY SECTION 21-80 (B) OF THE TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM REQUIREMENTS, UP FOR S E C O N D READING.**

Ordinance No. 5325

APPROVED, on Second reading

9. **ORDINANCE AMENDING ORDINANCE NO. 4647, BY CORRECTING AN ADMINISTRATIVE ERROR IN THE LEGAL DESCRIPTION OF THE PROPERTY REZONED FROM (AG) TO (I-L) WHICH WAS APPROVED BY MEMPHIS CITY COUNCIL ON MARCH 2, 1999. THIS PROPERTY IS LOCATED ON THE NORTH SIDE OF HOLMES ROAD, +/-1,640 FEET EAST OF LAMAR AVENUE, UP FOR S E C O N D READING.**

Ordinance No. 5326
Case No. Z 98-157cc

APPROVED, on Second reading

10. **RESOLUTION ACCEPTING RIDGEWAY TRACE DEVELOPMENT IMPROVEMENTS, AND AUTHORIZING RELEASE OF BOND.**

(Contract No. CR-5096)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the south side of Poplar Avenue, at Ridgeway Loop Road. The standard improvement contract was approved. Resolution also authorizes the release of the performance bond in the amount of \$721,900.00.

City Engineer recommends approval

APPROVED

11. **RESOLUTION APPROVING FINAL PLAT OF LAUSANNE COLLEGIATE SCHOOL DRAINAGE IMPROVEMENTS.**

Contract No. CR-5144

Resolution approves the engineering plans located on West Massey road at Lendenwood Road. Cost of the required improvements to be borne by the Developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

APPROVED

12. **NOTATIONS FROM LAND USE CONTROL BOARD THAT THE FOLLOWING CASES WERE HEARD AND RECOMMENDATION MADE REQUESTING A DATE OF PUBLIC HEARING:**

- A. Case No. PD 09-310 – Amendment to McDonald P.D.
- B. Case No. PD 09-314 – South Perkins P.D., 6th Amendment
- C. Case No. PD 09-315 – Kirby Gate Business Campus, 2nd Amendment

Public Hearing Set for August 18, 2009

ROLL CALL CONSENT ITEMS

MOTION: Boyd
SECOND: Ware
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Ware and Chairman Collins
Flinn, Halbert, Hedgepeth, Morrison and Strickland did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 13-15 may be acted upon by one motion:

13. **RESOLUTION AWARDING 12-MONTH MAINTENANCE CONTRACT FOR INSERTER MACHINE TO BOWE BELL & HOWELL IN THE AMOUNT OF \$54,342.56.**

APPROVED

14. **RESOLUTION AWARDING CONTRACT FOR TWO GALVANIZED DEAD-END STRUCTURES TO VALMONT-NEWARK IN THE AMOUNT OF \$59,990.00.**

APPROVED

15. **RESOLUTION AWARDING CONTRACT FOR SCADA HISTORICAL DATA SOFTWARE, LICENSES, IMPLEMENTATION AND MAINTENANCE TO GE ENERGY MANAGEMENT SERVICES, INC. IN THE AMOUNT OF \$67,073.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Ware
SECOND: Morrison
AYES: Boyd, Conrad, Ford, Fullilove, Hedgepeth, Strickland, Ware and Chairman Collins
Brown, Flinn, Halbert and Morrison did not cast a vote

APPROVED

16. **RESOLUTION APPROVING THE MEMPHIS CITY SCHOOLS' BUDGET FOR 2009-2010.** (Held from 7/21).

MOTION: Fullilove – Hold to August 18, 2009

Without Objection, item held to August 18, 2009

18. **ORDINANCE FIXING TAX RATE OF THE CITY OF MEMPHIS FOR THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS, UP FOR T H I R D AND F I N A L READING.** (Held from 7/7; 7/21)

Ordinance No. 5319

Held to August 18, 2009

17. **APPOINTMENTS**

Memphis City Beautiful Commission

Appointment

Brian Dixon

Reappointment

Damone Virgilio

Memphis and Shelby County New Arena Public Building Authority

Reappointments

Larry Jensen
Carol Jones
Larry Miller

Pension Board

Appointment

Nancy Albonetti

MOTION: Flinn
SECOND: Brown
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland,
Ware and Chairman Collins
Halbert did not cast a vote

APPROVED

19. **ORDINANCE TO AMEND CHAPTER 25, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO INCREASE PENSION BENEFITS ALLOWABLE UNDER SECTION 25-95 AND 25-195, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5321

MOTION: Flinn
SECOND: Boyd
AYES: Boyd, Brown, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
Conrad and Halbert did not cast a vote

APPROVED

20. **ORDINANCE TO AMEND CHAPTER 7, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO DECREASE THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE CENTER CITY COMMISSION, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5322

MOTION: Flinn
SECOND: Boyd
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Morrison, Strickland, Ware and
Chairman Collins
NAYS: Brown and Halbert

APPROVED

21. **ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 3, OF THE CODE OF ORDINANCES, TO ESTABLISH REQUIREMENTS FOR A CITY OF MEMPHIS FLEET AND EMPLOYEE TAKE HOME VEHICLE POLICY, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5323

Chairman Collins recognized the following person who spoke from the audience:

Martavius Jones, 1398 Worthington, Mphs, TN 38114

MOTION: Conrad – Hold for two weeks

Without Objection, item held for two weeks

MINUTES

Approval of the Minutes of the regular meeting of August 4, 2009 for Items 19 & 22 only:

MOTION: Flinn

SECOND: Boyd

AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Morrison, Strickland,
Ware and Chairman Collins
Brown did not cast a vote

APPROVED, items 19 and 22 only

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following persons who spoke from the audience:

Walter Broady, 4256 Ledbetter Cv., Mphs, TN 38109

Paul Brooks, 1220 Meadowlake Ln., Mphs, TN 38116

Charles Farmer, 4611 Buffer Drive, Mphs, TN 38116

ADJOURNED MEETING AT 4:56 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records